



DEPARTMENT OF HOMELAND SECURITY

Implementation of a Change to the Parole Process for Cubans

ACTION: Notice.

SUMMARY: This notice announces that the Secretary of Homeland Security has authorized a change to the Parole Process for Cubans that the U.S. Department of Homeland Security (DHS) described in a *Federal Register* notice on January 9, 2023. The change provides that those who have been interdicted at sea after [INSERT DATE OF PUBLIC INSPECTION] will be ineligible for the announced parole process.

DATES: DHS will begin applying this amendment on [INSERT DATE ONE DAY AFTER DATE OF PUBLIC INSPECTION].

FOR FURTHER INFORMATION CONTACT: Daniel Delgado, Acting Director, Border and Immigration Policy, Office of Strategy, Policy, and Plans, Department of Homeland Security, 2707 Martin Luther King Jr. Ave SE, Washington, DC 20528-0445; telephone (202) 447-3459 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

On January 9, 2023, DHS published a notice titled *Implementation of a Parole Process for Cubans*. See 88 FR 1266. That notice describes a new effort to address the increasing number of encounters of Cuban nationals at the Southwest Border (SWB) and at sea, which had reached record levels over the six months preceding the announcement. Cubans who do not avail themselves of this parole process, and instead enter the United States without authorization between ports of entry (POEs), generally are subject to return or removal. DHS implemented the parole process to allow certain Cuban nationals and their immediate family members to be considered on a case-by-case basis for parole and, if granted, lawfully enter the United States in a safe and orderly manner. As described in the January 2023 notice, to be eligible, individuals

must: (1) have a supporter in the United States who agrees to provide financial support for the duration of the beneficiary's parole period; (2) pass national security and public safety vetting; (3) fly at their own expense to an interior POE, rather than entering at a land POE; and (4) possess a valid, unexpired passport. Individuals are ineligible for this process if they have been ordered removed from the United States within the prior five years; have entered unauthorized into Mexico or Panama after January 9, 2023 (the date of the notice's publication); have entered the United States without authorization between POEs after January 9, 2023 (except for individuals permitted a single instance of voluntary departure or withdrawal of their application for admission to still maintain their eligibility for this process); or are otherwise deemed not to merit a favorable exercise of discretion.

The parole process for Cubans is intended to enhance border security by addressing the number of encounters of Cuban nationals at the SWB and at sea, which reached record levels in recent months, while also providing a process for certain such nationals to lawfully enter the United States in a safe and orderly manner.

II. Amendment

In response to the increasing number of Cubans traveling to the United States by sea without authorization through January 2023, and the likelihood of another record number of interdictions this fiscal year (FY), DHS is announcing an amendment to the eligibility criteria announced in the January 9, 2023 notice¹ to make individuals who have been interdicted at sea² after [INSERT DATE OF PUBLIC INSPECTION] ineligible for the parole process. The policy announced in this notice is consistent with the policy and justification described in the January 9, 2023 notice, including the justification for the parole process and description of the multiple exceptions to notice-and-comment rulemaking requirements applicable to this process. DHS

¹ Implementation of a Parole Process for Cubans, 88 FR 1266 (Jan. 9, 2023).

² For purposes of this notice, "interdicted at sea" refers to migrants directly interdicted by the U.S. Coast Guard from vessels subject to U.S. jurisdiction or vessels without nationality, or migrants transferred to the U.S. Coast Guard.

incorporates those justifications here by reference as appropriate. This notice makes one update to the eligibility criteria for the parole process.

A. Impact of Cuba, Haiti, Nicaragua, and Venezuela Enforcement Processes

Parole processes established for nationals of Cuba, Haiti, Nicaragua, and Venezuela (CHNV) and their immediate family members have significantly reduced SWB encounters. Following the announcement of the CHNV parole processes, DHS has seen a drastic decrease in the number of Cubans, Haitians, Nicaraguans, and Venezuelans encountered at the SWB. In fact, DHS encountered 128,410 noncitizens who entered between POEs along the SWB in January 2023, which is the lowest monthly SWB encounters total since February 2021.³ Encounters of CHNV nationals between POEs at the SWB declined from a 7-day average of 1,231 on the day of the announcement on January 5th, to 35 on January 31—a drop of 97 percent in just over three weeks.⁴ Those trends have continued with a daily average of 46 encounters of CHNV nationals between POEs at the SWB during the last seven days of February 2023.⁵ This reduction occurred even as encounters of other noncitizens began to rebound from the typical seasonal decline.⁶ The data continues to underscore and support the notion that when there is a safe and orderly way to come to the United States, coupled with consequences for those who do not avail themselves of such established processes, people are less inclined to attempt the dangerous, and at times, deadly, journey to our borders, and less likely to put their lives in the hands of smugglers.

B. Maritime Migration Continues to Increase, With Devastating Consequences for Migrants

³ U.S. Customs and Border Protection, *CBP Releases January 2023 Monthly Operational Update*, Feb. 10, 2023, <https://www.cbp.gov/newsroom/national-media-release/cbp-releases-january-2023-monthly-operational-update>.

⁴ DHS Office of Immigration Statistics (OIS) analysis of OIS Persist Dataset based on data through January 31, 2023.

⁵ OIS analysis of CBP Unified Immigration Portal (UIP) data pulled on March 2, 2023.

⁶ DHS, *Unlawful Southwest Border Crossings Plummet Under New Border Enforcement Measures*, Jan. 25, 2023, <https://www.dhs.gov/news/2023/01/25/unlawful-southwest-border-crossings-plummet-under-new-border-enforcement-measures>.

While DHS continues to see a meaningful reduction in encounters of CHNV nationals across the SWB following the announcement of the CHNV parole processes, maritime interdictions of Cuban and Haitian nationals in the Caribbean have increased in recent fiscal FYs and persist at high levels. Total interdictions at sea increased by 502 percent between FY 2020 (2,079) and FY 2022 (12,521). Interdictions continue to rise in FY 2023 with 7,402 through January, almost 60 percent of the total in FY 2022 within four months. Maritime migration from Cuba increased by nearly 600 percent in FY 2022, with 5,740 Cuban nationals interdicted at sea, compared to 827 in FY 2021. In the first four months of FY 2023, Cuban interdictions are over 80 percent of the Cuban FY 2022 total, comprising 65 percent of all FY 2023 interdictions at sea.⁷

Apprehensions of Cuban nationals in southeast coastal sectors by U.S. Border Patrol have been increasing rapidly.⁸ There were 2,675 Cuban apprehensions in FY 2022, an 11-fold increase over the FY 2021 total of 239 apprehensions. The first four months of FY 2023 have already surpassed FY 2022 with 4,273 apprehensions of Cuban nationals in southeast coastal sectors.⁹

The U.S. Coast Guard (USCG) has interdicted and repatriated Cubans in recent months. On January 12, 2023, USCG repatriated 177 Cubans from 7 separate interdictions.¹⁰ USCG repatriated an additional 67 Cubans between February 23-24 following prior interdictions.¹¹

While maritime interdictions of Cuban nationals declined somewhat in February, DHS assesses that in the Caribbean, the weather and migrant knowledge of increased law enforcement presence played a significant role in this reduced maritime movement. Through much of

⁷ OIS analysis of USCG data.

⁸ Includes Miami, Florida; New Orleans, Louisiana; and Ramey, Puerto Rico sectors where all apprehensions are land apprehensions not maritime.

⁹ OIS analysis of OIS Persist Dataset based on data through January 31, 2023.

¹⁰ USCG, *Coast Guard Repatriates 177 People to Cuba*, Jan. 12, 2023, <https://www.news.uscg.mil/Press-Releases/Article/3265898/coast-guard-repatriates-177-people-to-cuba/>.

¹¹ USCG, *Coast Guard Repatriates 29 People to Cuba*, Feb. 23, 2023, <https://www.news.uscg.mil/Press-Releases/Article/3306722/coast-guard-repatriates-29-people-to-cuba/>; USCG, *Coast Guard Repatriates 38 People to Cuba*, Feb. 24, 2023, <https://www.news.uscg.mil/Press-Releases/Article/3306850/coast-guard-repatriates-38-people-to-cuba/>.

February, weather conditions were unfavorable for maritime ventures, particularly on smaller vessels. However, DHS assesses this was only temporary. In the final days of February and early days of March 2023, DHS saw a return to multiple interdictions per day. The growing numbers of migrants taking to sea under dangerous conditions put lives at risk and places stress on DHS's resources.

Human smugglers and irregular migrant populations continue to use unseaworthy, overly crowded vessels, piloted by inexperienced mariners, without any safety equipment—including but not limited to, personal flotation devices, radios, maritime global positioning systems, or vessel locator beacons. In FY 2022, the USCG recorded 107 noncitizen deaths, including those presumed dead, as a result of irregular maritime migration. In January 2022, the USCG located a capsized vessel with a survivor clinging to the hull. USCG crews interviewed the survivor, who indicated there were 34 other individuals on the vessel who were not in the vicinity of the capsized vessel and the survivor.¹² The USCG conducted a multi-day air and surface search for the missing migrants, eventually recovering five deceased migrants, while the others were presumed lost at sea.¹³ In November 2022, USCG and U.S. Customs and Border Protection (CBP) rescued over 180 people from an overloaded boat that became disabled off the Florida Keys.¹⁴

The International Organization for Migration's (IOM) Missing Migrants Project reported at least 321 documented deaths and disappearances of migrants throughout the Caribbean in 2022, signaling the highest recorded number since IOM began tracking such events in 2014 and

¹² Adriana Gomez Licon, Associated Press, Situation 'dire' as Coast Guard seeks 38 missing off Florida, Jan. 26, 2022, <https://apnews.com/article/florida-capsized-boat-live-updates-f251d7d279b6c1fe064304740c3a3019>.

¹³ Adriana Gomez Licon, Associated Press, Coast Guard suspends search for migrants off Florida, Jan. 27, 2022, <https://apnews.com/article/florida-lost-at-sea-79253e1c65cf5708f19a97b6875ae239>.

¹⁴ Ashley Cox, CBS News CW44 Tampa, More than 180 people rescued from overloaded vessel in Florida Keys, Nov. 22, 2022, <https://www.cbsnews.com/tampa/news/more-than-180-people-rescued-from-overloaded-vessel-in-florida-keys/>.

a 78% overall increase over the 180 documented cases in 2021.¹⁵ Most of those who perished or went missing in the Caribbean were from Haiti and Cuba.¹⁶

The U.S. Government's response to maritime migration in the Caribbean region is governed by Executive Orders, Presidential Directives, and resulting framework and plans that outline interagency roles and responsibilities. Homeland Security Task Force-Southeast (HSTF-SE) is primarily responsible for DHS's response to maritime migration in the Caribbean Sea and the Straits of Florida. Operation Vigilant Sentry is the DHS interagency operational plan for integrated operations to address and mitigate the threat of a maritime mass migration in the Caribbean Sea and the Straits of Florida.¹⁷ The primary objectives of HSTF-SE are to protect the safety and security of the United States, uphold U.S. humanitarian principles, maintain the integrity of the U.S. immigration system, prevent loss of life at sea and to deter and dissuade maritime migration through mobilizing DHS resources, reinforced by other federal, state, and local assets and capabilities.

The USCG supports HSTF-SE and views its migrant interdiction mission as a humanitarian effort to rescue those who risk their lives by taking to the sea and encourage noncitizens to pursue legal pathways to enter the United States. By allocating additional assets to migrant interdiction operations and to prevent conditions that could lead to a maritime mass migration, the USCG assumes certain operational risk to other statutory missions. Some USCG assets were reallocated from other key mission areas, including counter-drug operations, protection of living marine resources, and support for shipping navigation. Through a reduction of maritime migration, USCG would in turn reduce the operational risk to its other statutory missions.

¹⁵ IOM, *Missing Migrants in the Caribbean Reached a Record High in 2022*, Jan. 24, 2023, <https://www.iom.int/news/missing-migrants-caribbean-reached-record-high-2022>.

¹⁶ *Id.*

¹⁷ Homeland Security Task Force – Southeast, published through the U.S. Embassy in Cuba, *Homeland Security Task Force Southeast partners increase illegal migration enforcement patrols in Florida Straits, Caribbean*, Sept. 6, 2022, <https://cu.usembassy.gov/homeland-security-task-force-southeast-partners-increase-illegal-migration-enforcement-patrols-in-florida-straits-caribbean/>.

C. Ineligibility Criteria for Maritime Interdictions

In response to the increase in maritime migration and interdictions, and to disincentivize migrants from attempting the dangerous journey to the United States by sea, DHS will make individuals who have been interdicted at sea after [INSERT DATE OF PUBLIC INSPECTION] ineligible for the parole process for Cubans. Further, DHS expects this change in eligibility criteria to materially reduce the number of maritime interdictions, by incentivizing migrants to use safe and orderly means to access the United States.

Migrants who take to the sea are putting their lives at incredible risk. The goal of this change, like the parole process for Cubans more broadly, is to save lives at sea and undermine the profits and operations of the dangerous smuggling networks and transnational criminal organizations that callously prioritize their profits over the lives and safety of the people they transport and traffic. The parole process for Cubans will continue to incentivize intending migrants to use a safe and orderly means to access the United States via commercial air flights, thus ultimately reducing the demand for smuggling networks to facilitate the dangerous journey by sea.

III. Paperwork Reduction Act (PRA)

Under the Paperwork Reduction Act (PRA), 44 U.S.C. chapter 35, all Departments are required to submit to the Office of Management and Budget (OMB), for review and approval, any new reporting requirements they impose. The process discussed in this notice involves two collections of information, both of which have previously been approved under emergency processing. The collections are as follows:

- USCIS, Form I-134A, *Online Request to be a Supporter and Declaration of Financial Support*, OMB control number 1615-0157.
- CBP, *Advance Travel Authorization*, OMB control number 1651-0143.

More information about both collections can be viewed at www.reginfo.gov.

Alejandro N. Mayorkas,
Secretary of Homeland Security.

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